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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/831,726

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Michel Banatre

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EXAMINER

MEHRPOUR, NAGHMEH

ART UNIT

PAPER NUMBER

2617

MAIL DATE

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

09/831,726

**Applicant(s)**

BANATRE ET AL.

**Examiner**

Naghmeh Mehrpour

**Art Unit**

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 December 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. **Claims 1-11**, are rejected under 35 U.S.C. 103(a) as being unpatentable over by Leifer (US patent 6,782,974 B2) in view of Balogi et al. (US Publication 2002/0022453).

Regarding **claims 1, 3, 7**, Leifer teaches a Mobile telephony method process (col 3 lines 24-40) wherein; a) provision is made for at least one application capable of processing the position of a user carrying a handheld unit (Ui) to modulate at least some characteristics of said application (col 7 lines 25-35); b) provision is made for at least one access terminal (Bai) belonging to a selected communications infrastructure, to enable at least one user handheld unit (Ui) to access said application over a selected geographical coverage

(Z2) (col 3 lines 25-35, col 4 lines 50-67);

c) provision is made for at least one mobile station (SMi) distributed in the coverage zone (Z2) of the access terminal (Bai) (col 3 lines 25-35, col 7 lines 25-30).

Leifer fails to teach d) the mobile station (SMi) is equipped with means of communication capable of establishing a short-range radiofrequency communication inside a selected perimeter (P1, P2) between the use handheld unit (Ui) and the mobile station (SM), and e) at least one user handheld unit (Ui) 20 is equipped with means of short-range radiofrequency communication interconnecting with those of the mobile station (SMi) to establish said short-range radiofrequency communication inside the selected perimeter (P1, P2) between the handheld unit (Ui) 20 and the mobile station (SMi) which enables said use handheld unit (Ui) to communicate with the mobile station (SMi) and with the access terminal (Bai) in order to access said application adapted according to the position of the user. However Balog teaches mobile Communication network wherein d) the mobile station (SMi) is equipped with means of communication capable of establishing a short-range radiofrequency communication inside a selected perimeter (P1, P2) between the use handheld unit (Ui) and the mobile station (SM) (0040); and e) at least one user handheld unit (Ui) 20 is equipped with means of short-range radiofrequency communication interconnecting with those of the mobile station (SMi) to establish said short-range radiofrequency communication inside the selected perimeter (P1, P2) between the handheld unit (Ui) and the mobile station (SMi) (0040); which enables said use handheld unit (Ui) to communicate with the mobile station (SMi) and with the access terminal (Bai) in order to access said application adapted according to the position of the user (0041). Therefore, it would have been obvious to ordinary skill in the art at the time the invention was made to combine the above teaching of Balog

with Leifer, in order to deliver content to a plurality of mobile devices communicatively coupled to each other via more advance system.

Regarding **claim 2**, Leifer teaches a method according to claim 1, wherein in that at least some of the application belong to the group formed by the absence/presence of the user, and billing of said application (col 4 lines 25-50).

Regarding **claim 4**, Leifer teaches a method wherein in that the mobile station (SMi) is capable of establishing communication with the access terminal (Bai), the mobile station (SMi), thereby playing the role of a handheld unit.

Regarding **claim 5**, Leifer teaches a method wherein in that provision is made for a communications infrastructure belonging to the group formed by the global cellular network of the type GSM, UMTS, and the local network of the ad hoc type (col 3 lines 30-41 ).

Regarding **claim 6**, Leifer teaches a method wherein a handheld unit belonging to the group formed by the mobile telephones (col 3 lines 25-41, col 7 lines 25-34)

Regarding **claims 8-11**, Leifer teaches a System/apparatus wherein at least one access terminal (Bai) belonging to a selected communication infrastructure, to enable at least one user handheld unit (Ui) to access a selected application over a selected geographical coverage (Z2) (col 4 lines 20-50), said application being capable of processing the position of a use carrying a hand unit to modulate at least of application (col 4 lines 50-65).

Leifer fails to teach at least one mobile station (SMi) distributed in the coverage zone (Z2) of the access terminal (Bai), said mobile station including means of communication capable of establishing short-range radiofrequency communication inside a selected perimeter (P1, P2) between the handheld unit (Ui) and the mobile station (SMi); and at least one use handheld unit incorporating means of short-range radiofrequency interconnecting with those of the mobile station (SMi) to establish said short-range radiofrequency inside the selected perimeter (P2, P2) between the handheld unit (Ui) and the mobile station (SMi) said user handheld unit (Ui) being capable of communicating with the mobile station (SMi) and with the access terminal (Bai). in order to access said application adapted according to the position of the user.

However Balog teaches at least one mobile station (SMi) distributed in the coverage zone (Z2) of the access terminal (Bai), said mobile station including means of communication capable of establishing short-range radiofrequency communication inside a selected perimeter (P1, P2) between the handheld unit (Ui) and the mobile station (SMi) (0040); and

at least one use handheld unit incorporating means of short-range radiofrequency interconnecting with those of the mobile station (SMi) to establish said short-range radiofrequency inside the selected perimeter (P2, P2) between the handheld

one user handheld unit (Ui) to access a selected application over a selected geographical coverage (Z2) (col 4 lines 20-50), said application being capable of processing the position of a use carrying a hand unit to modulate at least of application (col 4 lines 50-65).

Leifer fails to teach at least one mobile station (SMi) distributed in the coverage zone (Z2) of the access terminal (Bai),

said mobile station including means of communication capable of establishing short-range radiofrequency communication inside a selected perimeter (P1, P2) between the handheld unit (Ui) and the mobile station (SMi); and

at least one use handheld unit incorporating means of short-range radiofrequency interconnecting with those of the mobile station (SMi) to establish said short-range radiofrequency inside the selected perimeter (P2, P2) between the handheld unit (Ui) and the mobile station (SMi) said user handheld unit (Ui) being capable of communicating with the mobile station (SMi) and with the access terminal (Bai) in order to access said application adapted according to the position of the user.

However Balog teaches at least one mobile station (SMi) distributed in the coverage zone (Z2) of the access terminal (Bai), said mobile station including means of communication capable of establishing short-range radiofrequency communication

inside a selected perimeter (P1, P2) between the handheld unit (Ui) and the mobile station (SMi) (0040); and

at least one use handheld unit incorporating means of short-range radiofrequency interconnecting with those of the mobile station (SMi) to establish said short-range radiofrequency inside the selected perimeter (P2, P2) between the handheld

unit (Ui) and the mobile station (SMi) said user handheld unit (Ui) being capable of communicating with the mobile station (SMi) and with the access terminal (Bai), in order, to access said application adapted according to the position of the user (0036, 0041 ).

Therefore, it would have been obvious to ordinary skill in the art at the time the invention was made to combine the above teaching of Balog with Leifer, in order to deliver content to a plurality of mobile devices communicatively coupled to each other via more advance system.

### ***Response to Arguments***

2. Applicant's arguments filed 12/21/07 have been fully considered but they are not persuasive.

In response to applicant's argument that Balog teaches conventional use of Bluetooth, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the



claimed invention must be expressly suggested in any one or all of the references.

Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981). It must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

### ***Conclusion***

3. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

4. **Any responses to this action should be mailed to:**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Naghmeh Mehrpour whose telephone number is 571-272-7913. The examiner can normally be reached on 8:00- 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Appiah be reached (571) 272-7904.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

NM

January 11, 2008



NAGHMEH MEHRPOUR  
PRIMARY EXAMINER